

# Calendar No. 120

117TH CONGRESS  
1ST SESSION

# S. 2671

To amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, AUGUST 5), 2021

Mr. SCHUMER introduced the following bill; which was read the first time

AUGUST 7, 2021

Read the second time and placed on the calendar

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## A BILL

To amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Democracy Is Strengthened by Casting Light On Spend-

1 ing in Elections Act of 2021” or the “DISCLOSE Act  
2 of 2021”.

3 (b) TABLE OF CONTENTS.—The table of contents of  
4 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—CLOSING LOOPHOLES ALLOWING SPENDING BY  
FOREIGN NATIONALS IN ELECTIONS**

- See. 101. Clarification of prohibition on participation by foreign nationals in election-related activities.
- See. 102. Clarification of application of foreign money ban to certain disbursements and activities.
- See. 103. Audit and report on illicit foreign money in Federal elections.
- See. 104. Prohibition on contributions and donations by foreign nationals in connection with ballot initiatives and referenda.
- See. 105. Disbursements and activities subject to foreign money ban.
- See. 106. Prohibiting establishment of corporation to conceal election contributions and donations by foreign nationals.

**TITLE II—REPORTING OF CAMPAIGN-RELATED DISBURSEMENTS**

- Sec. 201. Reporting of campaign-related disbursements.
- Sec. 202. Application of foreign money ban to disbursements for campaign-related disbursements consisting of covered transfers.
- Sec. 203. Effective date.

**TITLE III—OTHER ADMINISTRATIVE REFORMS**

- Sec. 301. Petition for certiorari.
- Sec. 302. Judicial review of actions related to campaign finance laws.

1     **TITLE I—CLOSING LOOPHOLES**  
2     **ALLOWING SPENDING BY**  
3     **FOREIGN NATIONALS IN**  
4     **ELECTIONS**

5     **SEC. 101. CLARIFICATION OF PROHIBITION ON PARTICIPA-**  
6                 **TION BY FOREIGN NATIONALS IN ELECTION-**  
7                 **RELATED ACTIVITIES.**

8         (a)     **CLARIFICATION OF PROHIBITION.**—Section  
9     319(a) of the Federal Election Campaign Act of 1971 (52  
10 U.S.C. 30121(a)) is amended—

11                 (1) by striking “or” at the end of paragraph  
12     (1);

13                 (2) by striking the period at the end of para-  
14     graph (2) and inserting “; or”; and

15                 (3) by adding at the end the following new  
16     paragraph:

17                 “(3) a foreign national to direct, dictate, con-  
18     trol, or directly or indirectly participate in the deci-  
19     sion making process of any person (including a cor-  
20     poration, labor organization, political committee, or  
21     political organization) with regard to such person’s  
22     Federal or non-Federal election-related activity, in-  
23     cluding any decision concerning the making of con-  
24     tributions, donations, expenditures, or disbursements  
25     in connection with an election for any Federal,

1       State, or local office or any decision concerning the  
2       administration of a political committee.”.

3           (b) CERTIFICATION OF COMPLIANCE.—Section 319  
4 of such Act (52 U.S.C. 30121) is amended by adding at  
5 the end the following new subsection:

6           “(c) CERTIFICATION OF COMPLIANCE REQUIRED  
7 PRIOR TO CARRYING OUT ACTIVITY.—Prior to the mak-  
8 ing in connection with an election for Federal office of any  
9 contribution, donation, expenditure, independent expendi-  
10 ture, or disbursement for an electioneering communication  
11 by a corporation, labor organization (as defined in section  
12 316(b)), limited liability corporation, or partnership dur-  
13 ing a year, the chief executive officer of the corporation,  
14 labor organization, limited liability corporation, or part-  
15 nership (or, if the corporation, labor organization, limited  
16 liability corporation, or partnership does not have a chief  
17 executive officer, the highest ranking official of the cor-  
18 poration, labor organization, limited liability corporation,  
19 or partnership), shall file a certification with the Commis-  
20 sion, under penalty of perjury, that a foreign national did  
21 not direct, dictate, control, or directly or indirectly partici-  
22 pate in the decision making process relating to such activ-  
23 ity in violation of subsection (a)(3), unless the chief execu-  
24 tive officer has previously filed such a certification during  
25 that calendar year.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect upon the expiration of the  
3 180-day period which begins on the date of the enactment  
4 of this Act, and shall take effect without regard to whether  
5 or not the Federal Election Commission has promulgated  
6 regulations to carry out such amendments.

7 **SEC. 102. CLARIFICATION OF APPLICATION OF FOREIGN**  
8                   **MONEY BAN TO CERTAIN DISBURSEMENTS**  
9                   **AND ACTIVITIES.**

10      (a) APPLICATION TO DISBURSEMENTS TO SUPER  
11 PACS AND OTHER PERSONS.—Section 319(b) of the Fed-  
12 eral Election Campaign Act of 1971 (52 U.S.C. 30121(b))  
13 is amended—

14               (1) by redesignating paragraphs (1) and (2) as  
15 subparagraphs (A) and (B), respectively, and by  
16 moving such subparagraphs 2 ems to the right;

17               (2) by striking “As used in this section, the  
18 term ‘foreign national’ means” and inserting the fol-  
19 lowing: “DEFINITIONS.—For purposes of this sec-  
20 tion—

21               “(1) FOREIGN NATIONAL.—The term”;

22               (3) by moving paragraphs (1) and (2) two ems  
23 to the right and redesignating them as subpara-  
24 graphs (A) and (B), respectively; and

1                             (4) by adding at the end the following new  
2                             paragraph:

3                             “(2) CONTRIBUTION AND DONATION.—For pur-  
4                             poses of paragraphs (1) and (2) of subsection (a),  
5                             the term ‘contribution or donation’ includes any dis-  
6                             bursement to a political committee which accepts do-  
7                             nations or contributions that do not comply with any  
8                             of the limitations, prohibitions, and reporting re-  
9                             quirements of this Act (or any disbursement to or on  
10                            behalf of any account of a political committee which  
11                            is established for the purpose of accepting such do-  
12                            nations or contributions), or to any other person for  
13                            the purpose of funding an expenditure, independent  
14                            expenditure, or electioneering communication (as de-  
15                            fined in section 304(f)(3)).”.

16                             (b) CONDITIONS UNDER WHICH CORPORATE PACs  
17                             MAY MAKE CONTRIBUTIONS AND EXPENDITURES.—Sec-  
18                             tion 316(b) of such Act (52 U.S.C. 30118(b)) is amended  
19                             by adding at the end the following new paragraph:

20                             “(8) A separate segregated fund established by a cor-  
21                             poration may not make a contribution or expenditure dur-  
22                             ing a year unless the fund has certified to the Commission  
23                             the following during the year:

24                             “(A) Each individual who manages the fund,  
25                             and who is responsible for exercising decisionmaking

1 authority for the fund, is a citizen of the United  
2 States or is lawfully admitted for permanent resi-  
3 dence in the United States.

4               “(B) No foreign national under section 319  
5 participates in any way in the decisionmaking proc-  
6 esses of the fund with regard to contributions or ex-  
7 penditures under this Act.

8               “(C) The fund does not solicit or accept rec-  
9               ommendations from any foreign national under sec-  
10          tion 319 with respect to the contributions or expend-  
11          itures made by the fund.

12               “(D) Any member of the board of directors of  
13               the corporation who is a foreign national under sec-  
14               tion 319 abstains from voting on matters concerning  
15               the fund or its activities.”.

**16 SEC. 103. AUDIT AND REPORT ON ILLICIT FOREIGN MONEY  
17 IN FEDERAL ELECTIONS.**

18       (a) IN GENERAL.—Title III of the Federal Election  
19 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is  
20 amended by inserting after section 319 the following new  
21 section:

22 "SEC. 319A. AUDIT AND REPORT ON DISBURSEMENTS BY  
23 FOREIGN NATIONALS.

24            "(a) AUDIT.—

1                 “(1) IN GENERAL.—The Commission shall con-  
2                 duct an audit after each Federal election cycle to de-  
3                 termine the incidence of illicit foreign money in such  
4                 Federal election cycle.

5                 “(2) PROCEDURES.—In carrying out paragraph  
6                 (1), the Commission shall conduct random audits of  
7                 any disbursements required to be reported under  
8                 this Act, in accordance with procedures established  
9                 by the Commission.

10                “(b) REPORT.—Not later than 180 days after the end  
11                of each Federal election cycle, the Commission shall sub-  
12                mit to Congress a report containing—

13                “(1) results of the audit required by subsection  
14                (a)(1);

15                “(2) an analysis of the extent to which illicit  
16                foreign money was used to carry out disinformation  
17                and propaganda campaigns focused on depressing  
18                turnout among rural communities and the success or  
19                failure of these efforts, together with recommenda-  
20                tions to address these efforts in future elections;

21                “(3) an analysis of the extent to which illicit  
22                foreign money was used to carry out disinformation  
23                and propaganda campaigns focused on depressing  
24                turnout among African-American and other minority  
25                communities and the success or failure of these ef-

1       forts, together with recommendations to address  
2       these efforts in future elections;

3               “(4) an analysis of the extent to which illicit  
4       foreign money was used to carry out disinformation  
5       and propaganda campaigns focused on influencing  
6       military and veteran communities and the success or  
7       failure of these efforts, together with recommenda-  
8       tions to address these efforts in future elections; and

9               “(5) recommendations to address the presence  
10      of illicit foreign money in elections, as appropriate.

11       “(c) DEFINITIONS.—As used in this section:

12               “(1) The term ‘Federal election cycle’ means  
13       the period which begins on the day after the date of  
14       a regularly scheduled general election for Federal of-  
15       fice and which ends on the date of the first regularly  
16       scheduled general election for Federal office held  
17       after such date.

18               “(2) The term ‘illicit foreign money’ means any  
19       disbursement by a foreign national (as defined in  
20       section 319(b)) prohibited under such section.”.

21       (b) EFFECTIVE DATE.—The amendment made by  
22       subsection (a) shall apply with respect to the Federal elec-  
23       tion cycle that began during November 2020, and each  
24       succeeding Federal election cycle.

1   **SEC. 104. PROHIBITION ON CONTRIBUTIONS AND DONA-**  
2                         **TIONS BY FOREIGN NATIONALS IN CONNEC-**  
3                         **TION WITH BALLOT INITIATIVES AND**  
4                         **REFERENDA.**

5         (a) **IN GENERAL.**—Section 319(b) of the Federal  
6     Election Campaign Act of 1971 (52 U.S.C. 30121(b)), as  
7     amended by section 102(a), is amended by adding at the  
8     end the following new paragraph:

9                         “(3) **FEDERAL, STATE, OR LOCAL ELECTION.**—  
10         The term ‘Federal, State, or local election’ includes  
11         a State or local ballot initiative or referendum.”.

12         (b) **EFFECTIVE DATE.**—The amendment made by  
13     this section shall apply with respect to elections held in  
14     2022 or any succeeding year.

15   **SEC. 105. DISBURSEMENTS AND ACTIVITIES SUBJECT TO**  
16                         **FOREIGN MONEY BAN.**

17         (a) **DISBURSEMENTS DESCRIBED.**—Section  
18     319(a)(1) of the Federal Election Campaign Act of 1971  
19     (52 U.S.C. 30121(a)(1)), as amended by section 101, is  
20     amended—

21                         (1) by striking “or” at the end of subparagraph  
22         (B); and

23                         (2) by striking subparagraph (C) and inserting  
24         the following:

25                         “(C) an expenditure;

26                         “(D) an independent expenditure;

1               “(E) a disbursement for an electioneering  
2               communication (within the meaning of section  
3               304(f)(3));

4               “(F) a disbursement for a communication  
5               which is placed or promoted for a fee on a  
6               website, web application, or digital application  
7               that refers to a clearly identified candidate for  
8               election for Federal office and is disseminated  
9               within 60 days before a general, special or run-  
10               off election for the office sought by the can-  
11               didate or 30 days before a primary or pref-  
12               erence election, or a convention or caucus of a  
13               political party that has authority to nominate a  
14               candidate for the office sought by the can-  
15               didate;

16               “(G) a disbursement for a broadcast, cable  
17               or satellite communication, or for a communica-  
18               tion which is placed or promoted for a fee on  
19               a website, web application, or digital applica-  
20               tion, that promotes, supports, attacks or op-  
21               poses the election of a clearly identified can-  
22               didate for Federal, State, or local office (re-  
23               gardless of whether the communication contains  
24               express advocacy or the functional equivalent of  
25               express advocacy);

1               “(H) a disbursement for a broadcast,  
2               cable, or satellite communication, or for any  
3               communication which is placed or promoted for  
4               a fee on an online platform, that discusses a  
5               national legislative issue of public importance in  
6               a year in which a regularly scheduled general  
7               election for Federal office is held, but only if  
8               the disbursement is made by a covered foreign  
9               national;

10               “(I) a disbursement by a covered foreign  
11               national to compensate any person for internet  
12               activity that promotes, supports, attacks or op-  
13               poses the election of a clearly identified can-  
14               didate for Federal, State, or local office (re-  
15               gardless of whether the activity contains ex-  
16               press advocacy or the functional equivalent of  
17               express advocacy); or

18               “(J) a disbursement for a Federal judicial  
19               nomination communication (as defined in sec-  
20               tion 324(d)(3));”.

21               (b) ONLINE PLATFORM.—Section 319(b) of such Act  
22               (51 U.S.C. 30121(b)), as amended by sections 102(a) and  
23               104, is amended by adding at the end the following new  
24               paragraphs:

25               “(4) ONLINE PLATFORM.—

1                 “(A) IN GENERAL.—Subject to subparagraph (B), the term ‘online platform’ means  
2                 any public-facing website, web application, or  
3                 digital application (including a social network,  
4                 ad network, or search engine) which—

5                     “(i)(I) sells qualified political advertisements; and

6                     “(II) has 50,000,000 or more unique  
7                 monthly United States visitors or users for  
8                 a majority of months during the preceding  
9                 12 months; or

10                  “(ii) is a third-party advertising vendor that has 50,000,000 or more unique  
11                 monthly United States visitors in the aggregate on any advertisement space that it  
12                 has sold or bought for a majority of  
13                 months during the preceding 12 months,  
14                 as measured by an independent digital ratings service accredited by the Media Ratings  
15                 Council (or its successor).

16                  “(B) EXEMPTION.—Such term shall not  
17                 include any online platform that is a distribution facility of any broadcasting station or  
18                 newspaper, magazine, blog, publication, or peri-  
19                 odical.

1                 “(C) QUALIFIED POLITICAL ADVERTISE-  
2 MENT.—For purposes of this paragraph, the  
3 term ‘qualified political advertisement’ means  
4 any advertisement (including search engine  
5 marketing, display advertisements, video adver-  
6 tisements, native advertisements, and sponsor-  
7 ships) that—

8                 “(i) is made by or on behalf of a can-  
9 didate; or

10                 “(ii) communicates a message relating  
11 to any political matter of national impor-  
12 tance, including—

13                 “(I) a candidate;

14                 “(II) any election to Federal of-  
15 fice; or

16                 “(III) a national legislative issue  
17 of public importance.

18                 “(D) THIRD-PARTY ADVERTISING VENDOR  
19 DEFINED.—For purposes of this paragraph, the  
20 term ‘third-party advertising vendor’ includes,  
21 but is not limited to, any third-party adver-  
22 tising vendor network, advertising agency, ad-  
23 vertiser, or third-party advertisement serving  
24 company that buys and sells advertisement  
25 space on behalf of unaffiliated third-party

1           websites, search engines, digital applications, or  
2           social media sites.

3           “(5) COVERED FOREIGN NATIONAL.—

4           “(A) IN GENERAL.—The term ‘covered for-  
5           eign national’ means—

6                 “(i) a foreign principal (as defined in  
7                 section 1(b) of the Foreign Agents Reg-  
8                 istration Act of 1938 (22 U.S.C. 611(b))  
9                 that is a government of a foreign country  
10                or a foreign political party;

11                “(ii) any person who acts as an agent,  
12                representative, employee, or servant, or  
13                any person who acts in any other capacity  
14                at the order, request, or under the direc-  
15                tion or control, of a foreign principal de-  
16                scribed in clause (i) or of a person any of  
17                whose activities are directly or indirectly  
18                supervised, directed, controlled, financed,  
19                or subsidized in whole or in major part by  
20                a foreign principal described in clause (i);  
21                or

22                “(iii) any person included in the list of  
23                specially designated nationals and blocked  
24                persons maintained by the Office of For-  
25                eign Assets Control of the Department of

1           the Treasury pursuant to authorities relating  
2           to the imposition of sanctions relating  
3           to the conduct of a foreign principal de-  
4           scribed in clause (i).

5           “(B) CLARIFICATION REGARDING APPLICA-  
6           TION TO CITIZENS OF THE UNITED STATES.—  
7           In the case of a citizen of the United States,  
8           clause (ii) of subparagraph (A) applies only to  
9           the extent that the person involved acts within  
10          the scope of that person’s status as the agent  
11          of a foreign principal described clause (i) of  
12          subparagraph (A).”.

13          (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply with respect to disbursements  
15 made on or after the date of the enactment of this Act.

16 **SEC. 106. PROHIBITING ESTABLISHMENT OF CORPORATION**  
17           **TO CONCEAL ELECTION CONTRIBUTIONS**  
18           **AND DONATIONS BY FOREIGN NATIONALS.**

19          (a) PROHIBITION.—Chapter 29 of title 18, United  
20 States Code, is amended by adding at the end the fol-  
21 lowing:

1   **“§ 612. Establishment of corporation to conceal elec-**  
2                   **tion contributions and donations by for-**  
3                   **eign nationals”**

4         “(a) OFFENSE.—It shall be unlawful for an owner,  
5   officer, attorney, or incorporation agent of a corporation,  
6   company, or other entity to establish or use the corpora-  
7   tion, company, or other entity with the intent to conceal  
8   an activity of a foreign national (as defined in section 319  
9   of the Federal Election Campaign Act of 1971 (52 U.S.C.  
10   30121)) prohibited under such section 319.

11         “(b) PENALTY.—Any person who violates subsection  
12   (a) shall be imprisoned for not more than 5 years, fined  
13   under this title, or both.”.

14         (b) TABLE OF SECTIONS.—The table of sections for  
15   chapter 29 of title 18, United States Code, is amended  
16   by inserting after the item relating to section 611 the fol-  
17   lowing:

“612. Establishment of corporation to conceal election contributions and dona-  
tions by foreign nationals.”.

## **TITLE II—REPORTING OF CAMPAIGN-RELATED DISBURSEMENTS**

4 SEC. 201. REPORTING OF CAMPAIGN-RELATED DISBURSE-  
5 MENTS.

6       (a) DISCLOSURE REQUIREMENTS FOR CORPORA-  
7 TIONS, LABOR ORGANIZATIONS, AND CERTAIN OTHER  
8 ENTITIES.—

9               (1) IN GENERAL.—Section 324 of the Federal  
10          Election Campaign Act of 1971 (52 U.S.C. 30126)  
11          is amended to read as follows:

**12 "SEC. 324. DISCLOSURE OF CAMPAIGN-RELATED DISBURSE-  
13 MENTS BY COVERED ORGANIZATIONS.**

14           “(a) DISCLOSURE STATEMENT.—

15       “(1) IN GENERAL.—Any covered organization  
16       that makes campaign-related disbursements aggregat-  
17       ing more than \$10,000 in an election reporting  
18       cycle shall, not later than 24 hours after each disclo-  
19       sure date, file a statement with the Commission  
20       made under penalty of perjury that contains the in-  
21       formation described in paragraph (2)—

22                 “(A) in the case of the first statement filed  
23                 under this subsection, for the period beginning  
24                 on the first day of the election reporting cycle  
25                 (or, if earlier, the period beginning one year be-

1 fore the first such disclosure date) and ending  
2 on the first such disclosure date; and

3 “(B) in the case of any subsequent state-  
4 ment filed under this subsection, for the period  
5 beginning on the previous disclosure date and  
6 ending on such disclosure date.

7 “(2) INFORMATION DESCRIBED.—The informa-  
8 tion described in this paragraph is as follows:

9 “(A) The name of the covered organization  
10 and the principal place of business of such or-  
11 ganization and, in the case of a covered organi-  
12 zation that is a corporation (other than a busi-  
13 ness concern that is an issuer of a class of secu-  
14 rities registered under section 12 of the Securi-  
15 ties Exchange Act of 1934 (15 U.S.C. 78l) or  
16 that is required to file reports under section  
17 15(d) of that Act (15 U.S.C. 78o(d))) or an en-  
18 tity described in subsection (e)(2), a list of the  
19 beneficial owners (as defined in paragraph  
20 (4)(A)) of the entity that—

21 “(i) identifies each beneficial owner by  
22 name and current residential or business  
23 street address; and

24 “(ii) if any beneficial owner exercises  
25 control over the entity through another

1           legal entity, such as a corporation, partner-  
2           ship, limited liability company, or trust,  
3           identifies each such other legal entity and  
4           each such beneficial owner who will use  
5           that other entity to exercise control over  
6           the entity.

7           “(B) The amount of each campaign-related  
8           disbursement made by such organization during  
9           the period covered by the statement of more  
10          than \$1,000, and the name and address of the  
11          person to whom the disbursement was made.

12          “(C) In the case of a campaign-related dis-  
13          bursement that is not a covered transfer, the  
14          election to which the campaign-related disburse-  
15          ment pertains and if the disbursement is made  
16          for a public communication, the name of any  
17          candidate identified in such communication and  
18          whether such communication is in support of or  
19          in opposition to a candidate.

20          “(D) A certification by the chief executive  
21          officer or person who is the head of the covered  
22          organization that the campaign-related dis-  
23          bursement is not made in cooperation, consulta-  
24          tion, or concert with or at the request or sug-  
25          gestion of a candidate, authorized committee, or

1           agent of a candidate, political party, or agent of  
2           a political party.

3                 “(E)(i) If the covered organization makes  
4                 campaign-related disbursements using exclu-  
5                 sively funds in a segregated bank account con-  
6                 sisting of funds that were paid directly to such  
7                 account by persons other than the covered orga-  
8                 nization that controls the account, for each  
9                 such payment to the account—

10                 “(I) the name and address of each  
11                 person who made such payment during the  
12                 period covered by the statement;

13                 “(II) the date and amount of such  
14                 payment; and

15                 “(III) the aggregate amount of all  
16                 such payments made by the person during  
17                 the period beginning on the first day of the  
18                 election reporting cycle (or, if earlier, the  
19                 period beginning one year before the dis-  
20                 closure date) and ending on the disclosure  
21                 date,

22                 but only if such payment was made by a person  
23                 who made payments to the account in an aggre-  
24                 gate amount of \$10,000 or more during the pe-  
25                 riod beginning on the first day of the election

1 reporting cycle (or, if earlier, the period begin-  
2 ning one year before the disclosure date) and  
3 ending on the disclosure date.

4 “(ii) In any calendar year after 2022, sec-  
5 tion 315(c)(1)(B) shall apply to the amount de-  
6 scribed in clause (i) in the same manner as  
7 such section applies to the limitations estab-  
8 lished under subsections (a)(1)(A), (a)(1)(B),  
9 (a)(3), and (h) of such section, except that for  
10 purposes of applying such section to the  
11 amounts described in subsection (b), the ‘base  
12 period’ shall be calendar year 2022.

13 “(F)(i) If the covered organization makes  
14 campaign-related disbursements using funds  
15 other than funds in a segregated bank account  
16 described in subparagraph (E), for each pay-  
17 ment to the covered organization—

18 “(I) the name and address of each  
19 person who made such payment during the  
20 period covered by the statement;

21 “(II) the date and amount of such  
22 payment; and

23 “(III) the aggregate amount of all  
24 such payments made by the person during  
25 the period beginning on the first day of the

1                   election reporting cycle (or, if earlier, the  
2                   period beginning one year before the dis-  
3                   closure date) and ending on the disclosure  
4                   date,

5                   but only if such payment was made by a person  
6                   who made payments to the covered organization  
7                   in an aggregate amount of \$10,000 or more  
8                   during the period beginning on the first day of  
9                   the election reporting cycle (or, if earlier, the  
10                  period beginning one year before the disclosure  
11                  date) and ending on the disclosure date.

12                 “(ii) In any calendar year after 2022, sec-  
13                 tion 315(c)(1)(B) shall apply to the amount de-  
14                 scribed in clause (i) in the same manner as  
15                 such section applies to the limitations estab-  
16                 lished under subsections (a)(1)(A), (a)(1)(B),  
17                 (a)(3), and (h) of such section, except that for  
18                 purposes of applying such section to the  
19                 amounts described in subsection (b), the ‘base  
20                 period’ shall be calendar year 2022.

21                 “(G) Such other information as required in  
22                 rules established by the Commission to promote  
23                 the purposes of this section.

24                 “(3) EXCEPTIONS.—

1                 “(A) AMOUNTS RECEIVED IN ORDINARY  
2 COURSE OF BUSINESS.—The requirement to in-  
3 clude in a statement filed under paragraph (1)  
4 the information described in paragraph (2)  
5 shall not apply to amounts received by the cov-  
6 ered organization in commercial transactions in  
7 the ordinary course of any trade or business  
8 conducted by the covered organization or in the  
9 form of investments (other than investments by  
10 the principal shareholder in a limited liability  
11 corporation) in the covered organization. For  
12 purposes of this subparagraph, amounts re-  
13 ceived by a covered organization as remittances  
14 from an employee to the employee’s collective  
15 bargaining representative shall be treated as  
16 amounts received in commercial transactions in  
17 the ordinary course of the business conducted  
18 by the covered organization.

19                 “(B) DONOR RESTRICTION ON USE OF  
20 FUNDS.—The requirement to include in a state-  
21 ment submitted under paragraph (1) the infor-  
22 mation described in subparagraph (F) of para-  
23 graph (2) shall not apply if—

24                     “(i) the person described in such sub-  
25 paragraph prohibited, in writing, the use of

1                   the payment made by such person for cam-  
2                   paign-related disbursements; and

3                   “(ii) the covered organization agreed  
4                   to follow the prohibition and deposited the  
5                   payment in an account which is segregated  
6                   from any account used to make campaign-  
7                   related disbursements.

8                   “(C) THREAT OF HARASSMENT OR RE-  
9                   PRISAL.—The requirement to include any infor-  
10                  mation relating to the name or address of any  
11                  person (other than a candidate) in a statement  
12                  submitted under paragraph (1) shall not apply  
13                  if the inclusion of the information would subject  
14                  the person to serious threats, harassment, or  
15                  reprisals.

16                  “(4) OTHER DEFINITIONS.—For purposes of  
17                  this section:

18                  “(A) BENEFICIAL OWNER DEFINED.—

19                  “(i) IN GENERAL.—Except as pro-  
20                  vided in clause (ii), the term ‘beneficial  
21                  owner’ means, with respect to any entity,  
22                  a natural person who, directly or indi-  
23                  rectly—

1                         “(I) exercises substantial control  
2                         over an entity through ownership, vot-  
3                         ing rights, agreement, or otherwise; or

4                         “(II) has a substantial interest in  
5                         or receives substantial economic bene-  
6                         fits from the assets of an entity.

7                         “(ii) EXCEPTIONS.—The term ‘be-  
8                         nificial owner’ shall not include—

9                         “(I) a minor child;

10                         “(II) a person acting as a nomi-  
11                         nee, intermediary, custodian, or agent  
12                         on behalf of another person;

13                         “(III) a person acting solely as  
14                         an employee of an entity and whose  
15                         control over or economic benefits from  
16                         the entity derives solely from the em-  
17                         ployment status of the person;

18                         “(IV) a person whose only inter-  
19                         est in an entity is through a right of  
20                         inheritance, unless the person also  
21                         meets the requirements of clause (i);

22                         or

23                         “(V) a creditor of an entity, un-  
24                         less the creditor also meets the re-  
25                         quirements of clause (i).

1                 “(iii) ANTI-ABUSE RULE.—The exceptions under clause (ii) shall not apply if used for the purpose of evading, circumventing, or abusing the provisions of clause (i) or paragraph (2)(A).

6                 “(B) DISCLOSURE DATE.—The term ‘disclosure date’ means—

8                     “(i) the first date during any election reporting cycle by which a person has made campaign-related disbursements aggregating more than \$10,000; and

12                  “(ii) any other date during such election reporting cycle by which a person has made campaign-related disbursements aggregating more than \$10,000 since the most recent disclosure date for such election reporting cycle.

18                 “(C) ELECTION REPORTING CYCLE.—The term ‘election reporting cycle’ means the 2-year period beginning on the date of the most recent general election for Federal office, except that in the case of a campaign-related disbursement for a Federal judicial nomination communication, such term means any calendar year in

1           which the campaign-related disbursement is  
2           made.

3           “(D) PAYMENT.—The term ‘payment’ in-  
4           cludes any contribution, donation, transfer, pay-  
5           ment of dues, or other payment.

6           “(b) COORDINATION WITH OTHER PROVISIONS.—

7           “(1) OTHER REPORTS FILED WITH THE COM-  
8           MISSION.—Information included in a statement filed  
9           under this section may be excluded from statements  
10          and reports filed under section 304.

11          “(2) TREATMENT AS SEPARATE SEGREGATED  
12          FUND.—A segregated bank account referred to in  
13          subsection (a)(2)(E) may be treated as a separate  
14          segregated fund for purposes of section 527(f)(3) of  
15          the Internal Revenue Code of 1986.

16          “(c) FILING.—Statements required to be filed under  
17          subsection (a) shall be subject to the requirements of sec-  
18          tion 304(d) to the same extent and in the same manner  
19          as if such reports had been required under subsection (e)  
20          or (g) of section 304.

21          “(d) CAMPAIGN-RELATED DISBURSEMENT DE-  
22          FINED.—

23          “(1) IN GENERAL.—In this section, the term  
24          ‘campaign-related disbursement’ means a disburse-

1       ment by a covered organization for any of the fol-  
2       lowing:

3                 “(A) An independent expenditure which ex-  
4       pressly advocates the election or defeat of a  
5       clearly identified candidate for election for Fed-  
6       eral office, or is the functional equivalent of ex-  
7       press advocacy because, when taken as a whole,  
8       it can be interpreted by a reasonable person  
9       only as advocating the election or defeat of a  
10      candidate for election for Federal office.

11                “(B) An applicable public communication.

12                “(C) An electioneering communication, as  
13       defined in section 304(f)(3).

14                “(D) A Federal judicial nomination com-  
15       munication.

16                “(E) A covered transfer.

17                “(2) APPLICABLE PUBLIC COMMUNICATIONS.—

18                “(A) IN GENERAL.—The term ‘applicable  
19       public communication’ means any public com-  
20       munication that refers to a clearly identified  
21       candidate for election for Federal office and  
22       which promotes or supports the election of a  
23       candidate for that office, or attacks or opposes  
24       the election of a candidate for that office, with-  
25       out regard to whether the communication ex-

1           pressly advocates a vote for or against a can-  
2           didate for that office.

3           “(B) EXCEPTION.—Such term shall not in-  
4           clude any news story, commentary, or editorial  
5           distributed through the facilities of any broad-  
6           casting station or any print, online, or digital  
7           newspaper, magazine, publication, or periodical,  
8           unless such facilities are owned or controlled by  
9           any political party, political committee, or can-  
10          didate.

11          “(3) FEDERAL JUDICIAL NOMINATION COMMU-  
12          NICATION.—

13          “(A) IN GENERAL.—The term ‘Federal ju-  
14          dicial nomination communication’ means any  
15          communication—

16           “(i) that is by means of any broad-  
17          cast, cable, or satellite, paid internet, or  
18          paid digital communication, paid pro-  
19          motion, newspaper, magazine, outdoor ad-  
20          vertising facility, mass mailing, telephone  
21          bank, telephone messaging effort of more  
22          than 500 substantially similar calls or elec-  
23          tronic messages within a 30-day period, or  
24          any other form of general public political  
25          advertising; and

1                         “(ii) which promotes, supports, at-  
2                         tacks, or opposes the nomination or Senate  
3                         confirmation of an individual as a Federal  
4                         judge or justice.

5                         “(B) EXCEPTION.—Such term shall not in-  
6                         clude any news story, commentary, or editorial  
7                         distributed through the facilities of any broad-  
8                         casting station or any print, online, or digital  
9                         newspaper, magazine, publication, or periodical,  
10                       unless such facilities are owned or controlled by  
11                       any political party, political committee, or can-  
12                       didate.

13                         “(4) INTENT NOT REQUIRED.—A disbursement  
14                         for an item described in subparagraph (A), (B), (C),  
15                         (D), or (E) of paragraph (1) shall be treated as a  
16                         campaign-related disbursement regardless of the in-  
17                         tent of the person making the disbursement.

18                         “(e) COVERED ORGANIZATION DEFINED.—In this  
19                         section, the term ‘covered organization’ means any of the  
20                         following:

21                         “(1) A corporation (other than an organization  
22                         described in section 501(c)(3) of the Internal Rev-  
23                         enue Code of 1986).

24                         “(2) A limited liability corporation that is not  
25                         otherwise treated as a corporation for purposes of

1       this Act (other than an organization described in  
2       section 501(c)(3) of the Internal Revenue Code of  
3       1986).

4           “(3) An organization described in section  
5       501(c) of such Code and exempt from taxation  
6       under section 501(a) of such Code (other than an  
7       organization described in section 501(c)(3) of such  
8       Code).

9           “(4) A labor organization (as defined in section  
10      316(b)).

11          “(5) Any political organization under section  
12      527 of the Internal Revenue Code of 1986, other  
13      than a political committee under this Act (except as  
14      provided in paragraph (6)).

15          “(6) A political committee with an account that  
16      accepts donations or contributions that do not com-  
17      ply with the contribution limits or source prohibi-  
18      tions under this Act, but only with respect to such  
19      accounts.

20          “(f) COVERED TRANSFER DEFINED.—

21           “(1) IN GENERAL.—In this section, the term  
22      ‘covered transfer’ means any transfer or payment of  
23      funds by a covered organization to another person if  
24      the covered organization—

1                 “(A) designates, requests, or suggests that  
2                 the amounts be used for—

3                         “(i) campaign-related disbursements  
4                         (other than covered transfers); or

5                         “(ii) making a transfer to another  
6                 person for the purpose of making or pay-  
7                 ing for such campaign-related disburse-  
8                 ments;

9                 “(B) made such transfer or payment in re-  
10                 sponse to a solicitation or other request for a  
11                 donation or payment for—

12                         “(i) the making of or paying for cam-  
13                 paign-related disbursements (other than  
14                 covered transfers); or

15                         “(ii) making a transfer to another  
16                 person for the purpose of making or pay-  
17                 ing for such campaign-related disburse-  
18                 ments;

19                 “(C) engaged in discussions with the re-  
20                 cipient of the transfer or payment regarding—

21                         “(i) the making of or paying for cam-  
22                 paign-related disbursements (other than  
23                 covered transfers); or

24                         “(ii) donating or transferring any  
25                 amount of such transfer or payment to an-

1           other person for the purpose of making or  
2           paying for such campaign-related disburse-  
3           ments;

4           “(D) made campaign-related disburse-  
5           ments (other than a covered transfer) in an ag-  
6           gregate amount of \$50,000 or more during the  
7           2-year period ending on the date of the transfer  
8           or payment, or knew or had reason to know  
9           that the person receiving the transfer or pay-  
10          ment made such disbursements in such an ag-  
11          gregate amount during that 2-year period; or

12          “(E) knew or had reason to know that the  
13          person receiving the transfer or payment would  
14          make campaign-related disbursements in an ag-  
15          gregate amount of \$50,000 or more during the  
16          2-year period beginning on the date of the  
17          transfer or payment.

18          “(2) EXCLUSIONS.—The term ‘covered transfer’  
19          does not include any of the following:

20           “(A) A disbursement made by a covered  
21          organization in a commercial transaction in the  
22          ordinary course of any trade or business con-  
23          ducted by the covered organization or in the  
24          form of investments made by the covered orga-  
25          nization.

1               “(B) A disbursement made by a covered  
2               organization if—

3                     “(i) the covered organization prohib-  
4               ited, in writing, the use of such disburse-  
5               ment for campaign-related disbursements;  
6               and

7                     “(ii) the recipient of the disbursement  
8               agreed to follow the prohibition and depos-  
9               ited the disbursement in an account which  
10               is segregated from any account used to  
11               make campaign-related disbursements.

12               “(3) SPECIAL RULE REGARDING TRANSFERS  
13               AMONG AFFILIATES.—

14               “(A) SPECIAL RULE.—A transfer of an  
15               amount by one covered organization to another  
16               covered organization which is treated as a  
17               transfer between affiliates under subparagraph  
18               (C) shall be considered a covered transfer by  
19               the covered organization which transfers the  
20               amount only if the aggregate amount trans-  
21               ferred during the year by such covered organi-  
22               zation to that same covered organization is  
23               equal to or greater than \$50,000.

24               “(B) DETERMINATION OF AMOUNT OF  
25               CERTAIN PAYMENTS AMONG AFFILIATES.—In

1           determining the amount of a transfer between  
2           affiliates for purposes of subparagraph (A), to  
3           the extent that the transfer consists of funds  
4           attributable to dues, fees, or assessments which  
5           are paid by individuals on a regular, periodic  
6           basis in accordance with a per-individual cal-  
7           culation which is made on a regular basis, the  
8           transfer shall be attributed to the individuals  
9           paying the dues, fees, or assessments and shall  
10          not be attributed to the covered organization.

11           “(C) DESCRIPTION OF TRANSFERS BE-  
12          TWEEN AFFILIATES.—A transfer of amounts  
13          from one covered organization to another cov-  
14          ered organization shall be treated as a transfer  
15          between affiliates if—

16               “(i) one of the organizations is an af-  
17               filiate of the other organization; or

18               “(ii) each of the organizations is an  
19               affiliate of the same organization,

20               except that the transfer shall not be treated as  
21               a transfer between affiliates if one of the orga-  
22               nizations is established for the purpose of mak-  
23               ing campaign-related disbursements.

24           “(D) DETERMINATION OF AFFILIATE STA-  
25           TUS.—For purposes of subparagraph (C), a

1 covered organization is an affiliate of another  
2 covered organization if—

3 “(i) the governing instrument of the  
4 organization requires it to be bound by de-  
5 cisions of the other organization;

6 “(ii) the governing board of the orga-  
7 nization includes persons who are specifi-  
8 cally designated representatives of the  
9 other organization or are members of the  
10 governing board, officers, or paid executive  
11 staff members of the other organization, or  
12 whose service on the governing board is  
13 contingent upon the approval of the other  
14 organization; or

15 “(iii) the organization is chartered by  
16 the other organization.

17 “(E) COVERAGE OF TRANSFERS TO AF-  
18 FILIATED SECTION 501(c)(3) ORGANIZA-  
19 TIONS.—This paragraph shall apply with re-  
20 spect to an amount transferred by a covered or-  
21 ganization to an organization described in para-  
22 graph (3) of section 501(c) of the Internal Rev-  
23 enue Code of 1986 and exempt from tax under  
24 section 501(a) of such Code in the same man-  
25 ner as this paragraph applies to an amount

1           transferred by a covered organization to an-  
2           other covered organization.

3        “(g) NO EFFECT ON OTHER REPORTING REQUIRE-  
4 MENTS.—Nothing in this section shall be construed to  
5 waive or otherwise affect any other requirement of this  
6 Act which relates to the reporting of campaign-related dis-  
7 bursements.”.

8           (2) CONFORMING AMENDMENT.—Section  
9        304(f)(6) of such Act (52 U.S.C. 30104) is amended  
10      by striking “Any requirement” and inserting “Ex-  
11      cept as provided in section 324(b), any require-  
12      ment”.

13        (b) COORDINATION WITH FINCEN.—

14           (1) IN GENERAL.—The Director of the Finan-  
15      cial Crimes Enforcement Network of the Depart-  
16      ment of the Treasury shall provide the Federal Elec-  
17      tion Commission with such information as necessary  
18      to assist in administering and enforcing section 324  
19      of the Federal Election Campaign Act of 1971, as  
20      amended by this section.

21           (2) REPORT.—Not later than 6 months after  
22      the date of the enactment of this Act, the Chairman  
23      of the Federal Election Commission, in consultation  
24      with the Director of the Financial Crimes Enforce-  
25      ment Network of the Department of the Treasury,

1 shall submit to Congress a report with recommenda-  
2 tions for providing further legislative authority to as-  
3 sist in the administration and enforcement of such  
4 section 324.

5 **SEC. 202. APPLICATION OF FOREIGN MONEY BAN TO DIS-**  
6 **BURSEMENTS FOR CAMPAIGN-RELATED DIS-**  
7 **BURSEMENTS CONSISTING OF COVERED**  
8 **TRANSFERS.**

9 Section 319(b)(2) of the Federal Election Campaign  
10 Act of 1971 (52 U.S.C. 30121(a)(1)(A)), as amended by  
11 section 102, is amended—

12 (1) by striking “includes any disbursement”  
13 and inserting “includes—  
14 “(A) any disbursement”;

15 (2) by striking the period at the end and insert-  
16 ing “; and”, and

17 (3) by adding at the end the following new sub-  
18 paragraph:

19 “(B) any disbursement, other than a dis-  
20 bursment described in section 324(a)(3)(A), to  
21 another person who made a campaign-related  
22 disbursement consisting of a covered transfer  
23 (as described in section 324) during the 2-year  
24 period ending on the date of the disburse-  
25 ment.”.

## **1 SEC. 203. EFFECTIVE DATE.**

2 The amendments made by this title shall apply with  
3 respect to disbursements made on or after January 1,  
4 2022, and shall take effect without regard to whether or  
5 not the Federal Election Commission has promulgated  
6 regulations to carry out such amendments.

## 7           **TITLE III—OTHER**

## 8           **ADMINISTRATIVE REFORMS**

## **9 SEC. 301. PETITION FOR CERTIORARI.**

10 Section 307(a)(6) of the Federal Election Campaign  
11 Act of 1971 (52 U.S.C. 30107(a)(6)) is amended by in-  
12 serting “(including a proceeding before the Supreme  
13 Court on certiorari)” after “appeal”.

**14 SEC. 302. JUDICIAL REVIEW OF ACTIONS RELATED TO CAM-  
15 PAIGN FINANCE LAWS.**

16       (a) IN GENERAL.—Title IV of the Federal Election  
17 Campaign Act of 1971 (52 U.S.C. 30141 et seq.) is  
18 amended by inserting after section 406 the following new  
19 section:

## 20 "SEC. 407. JUDICIAL REVIEW.

“(a) IN GENERAL.—If any action is brought for declaratory or injunctive relief to challenge, whether facially or as-applied, the constitutionality or lawfulness of any provision of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986, or is brought to with respect to any action of the Commission under chapter 95 or 96 of

1 the Internal Revenue Code of 1986, the following rules  
2 shall apply:

3       “(1) The action shall be filed in the United  
4 States District Court for the District of Columbia  
5 and an appeal from the decision of the district court  
6 may be taken to the Court of Appeals for the Dis-  
7 trict of Columbia Circuit.

8       “(2) In the case of an action relating to declar-  
9 atory or injunctive relief to challenge the constitu-  
10 tionality of a provision, the party filing the action  
11 shall concurrently deliver a copy of the complaint to  
12 the Clerk of the House of Representatives and the  
13 Secretary of the Senate.

14       “(3) It shall be the duty of the United States  
15 District Court for the District of Columbia and the  
16 Court of Appeals for the District of Columbia Cir-  
17 circuit to advance on the docket and to expedite to the  
18 greatest possible extent the disposition of the action  
19 and appeal.

20       “(b) CLARIFYING SCOPE OF JURISDICTION.—If an  
21 action at the time of its commencement is not subject to  
22 subsection (a), but an amendment, counterclaim, cross-  
23 claim, affirmative defense, or any other pleading or motion  
24 is filed challenging, whether facially or as-applied, the con-  
25 stitutionality or lawfulness of this Act or of chapter 95

1 or 96 of the Internal Revenue Code of 1986, or is brought  
2 to with respect to any action of the Commission under  
3 chapter 95 or 96 of the Internal Revenue Code of 1986,  
4 the district court shall transfer the action to the District  
5 Court for the District of Columbia, and the action shall  
6 thereafter be conducted pursuant to subsection (a).

7       “(c) INTERVENTION BY MEMBERS OF CONGRESS.—  
8 In any action described in subsection (a) relating to de-  
9 claratory or injunctive relief to challenge the constitu-  
10 tionality of a provision, any Member of the House of Rep-  
11 resentatives (including a Delegate or Resident Commis-  
12 sioner to the Congress) or Senate shall have the right to  
13 intervene either in support of or opposition to the position  
14 of a party to the case regarding the constitutionality of  
15 the provision. To avoid duplication of efforts and reduce  
16 the burdens placed on the parties to the action, the court  
17 in any such action may make such orders as it considers  
18 necessary, including orders to require intervenors taking  
19 similar positions to file joint papers or to be represented  
20 by a single attorney at oral argument.

21       “(d) CHALLENGE BY MEMBERS OF CONGRESS.—Any  
22 Member of Congress may bring an action, subject to the  
23 special rules described in subsection (a), for declaratory  
24 or injunctive relief to challenge, whether facially or as-ap-

1 plied, the constitutionality of any provision of this Act or  
2 chapter 95 or 96 of the Internal Revenue Code of 1986.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 9011 of the Internal Revenue Code  
5 of 1986 is amended to read as follows:

6 **“SEC. 9011. JUDICIAL REVIEW.**

7 “For provisions relating to judicial review of certifi-  
8 cations, determinations, and actions by the Commission  
9 under this chapter, see section 407 of the Federal Election  
10 Campaign Act of 1971.”.

11 (2) Section 9041 of the Internal Revenue Code  
12 of 1986 is amended to read as follows:

13 **“SEC. 9041. JUDICIAL REVIEW.**

14 “For provisions relating to judicial review of actions  
15 by the Commission under this chapter, see section 407 of  
16 the Federal Election Campaign Act of 1971.”.

17 (3) Section 310 of the Federal Election Cam-  
18 paign Act of 1971 (52 U.S.C. 30110) is repealed.

19 (4) Section 403 of the Bipartisan Campaign  
20 Reform Act of 2002 (52 U.S.C. 30110 note) is re-  
21 pealed.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to actions brought on or after Jan-  
24 uary 1, 2021.

## 1           **TITLE IV—SEVERABILITY**

### 2   **SEC. 401. SEVERABILITY.**

3         If any provision of this Act or amendment made by  
4   this Act, or the application of a provision or amendment  
5   to any person or circumstance, is held to be unconstitu-  
6   tional, the remainder of this Act and amendments made  
7   by this Act, and the application of the provisions and  
8   amendment to any person or circumstance, shall not be  
9   affected by the holding.



**Calendar No. 120**

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION  
**S. 2671**

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**A BILL**

To amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, and for other purposes.

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AUGUST 7, 2021

Read the second time and placed on the calendar